

County of Passaic

Board of County Commissioners



OFFICE OF COUNTY COMMISSIONERS

Director Bruce James
Deputy Director Cassandra "Sandi" Lazzara
John W. Bartlett
Theodore O. Best, Jr.
Terry Duffy
Nicolino Gallo
Pasquale "Pat" Lepore

401 Grand Street
Paterson, New Jersey 07505
Tel: 973-881-4402
Fax: 973-742-3746

Anthony J. De Nova III
Administrator
Matthew P. Jordan, Esq.
County Counsel
Louis E. Imhof, III, RMC
Clerk Of The Board

Date: Jul 19, 2022 - 5:30 PM

Agenda: RESOLUTION AUTHORIZING A SHARED SERVICE AGREEMENT BETWEEN THE COUNTY OF PASSAIC, THE TOWNSHIP OF WAYNE, PASSAIC VALLEY WATER COMMISSION, AND THE WAYNE BOARD OF EDUCATION FOR THE PROPOSED SIDEWALK PROJECT ON BERDAN AVENUE, IN THE TOWNSHIP OF WAYNE NEW JERSEY PURSUANT TO N.J.S.A. 40A:65-1, ET SEQ.

THIS RESOLUTION WAS REQUESTED BY:
ENGINEERING

REVIEWED BY:

Anthony J. De Nova III

APPROVED AS TO FORM AND LEGALITY:

Matthew P. Jordan, Esq.

Official Resolution#	
Meeting Date	7/19/2022
Introduced Date	7/13/2022
Adopted Date	
Agenda Item	72.
CAF#	
Purchase Req. #	
Result	

Public Works

COMMITTEE NAME

RESOLUTION AUTHORIZING A SHARED SERVICE AGREEMENT BETWEEN THE COUNTY OF PASSAIC, THE TOWNSHIP OF WAYNE, PASSAIC VALLEY WATER COMMISSION, AND THE WAYNE BOARD OF EDUCATION FOR THE PROPOSED SIDEWALK PROJECT ON BERDAN AVENUE, IN THE TOWNSHIP OF WAYNE NEW JERSEY PURSUANT TO N.J.S.A. 40A:65-1, ET SEQ.

WHEREAS, the County of Passaic (hereafter “County”) is a body politic and corporate pursuant to N.J.S.A. 40:18-1 and vested with all rights contained therein; and

WHEREAS, pursuant to N.J.S.A. 40:20-1 the Board of County Commissioners of the County of Passaic (hereafter “Board”) is vested with managing the property, finances, and affairs of the County; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., authorizes the County to enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in the agreement is empowered to provide or receive within its own jurisdiction; and

WHEREAS, the County Engineer recommending a shared service agreement between the County of Passaic, the Township of Wayne, Passaic Valley Water Commission, and the Wayne Board of Education for the proposed sidewalk project, a copy of which is attached and made part of this Resolution, on Berdan Avenue, in the Township of Wayne; and

WHEREAS, this matter was discussed at the July 6, 2022, meeting of the Public Works Committee and is being recommended to the Board for approval.

NOW, THEREFORE, LET IT BE RESOLVED, pursuant to N.J.S.A. 40A:65-1, et seq. that the Shared Services Agreement between the County of the Township of Wayne, Passaic Valley Water Commission, and the Wayne Board of Education for the proposed sidewalk project on Berdan Avenue, in the Township of Wayne is hereby authorized.

LET IT BE FURTHER RESOLVED, that the Clerk to the Board, County Counsel, and Director of the Board are authorized to take any other action necessary to carry out the purposes of this resolution.

NDA

July 19, 2022

Wayne

Township Public Schools

50 Nellis Drive, Wayne, New Jersey 07470

William P. Moffitt
Business Administrator/Board Secretary

RECEIVED

wmoffitt@wayneschools.com

2022 JUL -8 P 3: 38
Phone: (973) 633-3006
(973) 628-8837

PASSAIC COUNTY
COUNSEL'S OFFICE

July 6, 2022

Nadege D. Allwaters, Esq.
County of Passaic
Office of the County Counsel
401 Grand St., Room 214
Paterson, NJ 07505

RE: Shared Services Agreement for the Berdan Avenue Sidewalk Project

Dear Mr. Allwaters:

Enclosed please find the original executed copy of the Agreement for the above-referenced services.

Very truly yours,



William P. Moffitt
Business Administrator/Board Secretary

WPM/ac

Enclosure

SHARED SERVICES AGREEMENT

between the

COUNTY OF PASSAIC

and the

TOWNSHIP OF WAYNE

and the

WAYNE BOARD OF EDUCATION

and the

PASSAIC VALLEY WATER COMMISSION

for the

CONSTRUCTION OF A SIDEWALK ON BERDAN AVENUE

PREPARED BY:

The Office of the Passaic County Counsel
401 Grand Street, Room 214
Paterson, New Jersey 07505
Phone: (973) 881-4466
Fax: (973) 881-4072

THIS SHARED SERVICES AGREEMENT (hereafter "Agreement"), dated this 22 day of June, 2022, by and between the County of Passaic, a body politic and corporate of the State of New Jersey (hereafter "County"), with its principal offices located at 401 Grand Street, Room 205, Paterson, New Jersey 07505, the Township of Wayne (hereafter "Township") a corporate body politic of the State of New Jersey, with its principal offices located 475 Valley Road, Wayne, New Jersey, the Wayne Township Board of Education (hereafter "BOE") is a corporate body politic of the State of New Jersey, with its principal offices located at 50 Nellis Drive, Wayne, New Jersey and the Passaic Valley Water Commission (hereafter "PVWC") a corporation with its principal offices located at 1525 Main Avenue, Clifton, New Jersey (collectively referred to as the "Parties").

RECITALS

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., allows for any local unit to enter into an agreement with any other local unit or units to provide or receive any services that each local unit participating in the Agreement is empowered to provide or receive within its own jurisdiction, as set forth in N.J.S.A. 40A:65-7; and

WHEREAS, the Parties are seeking to work collaboratively to install an approximately nine hundred (900) feet of sidewalk along the west side of Berdan Avenue across the street from the Wayne Hills High School from the cross walk to the sidewalk connection in front of the Pointview Shopping Center at 189-239 Berdan Avenue (hereafter "Sidewalk Project"); and

WHEREAS, pursuant to N.J.S.A. 40A:65-5, the Parties each adopted resolutions authorizing entry into this Agreement, copies of which are annexed hereto and made part of this Agreement.

NOW, THEREFORE, BE IT AGREED, in consideration of the promises, covenants, terms, and conditions hereinafter set forth, the Parties agree to perform in accordance with the provisions, terms, and conditions set forth in this Agreement as follows:

1. **Incorporation of Recitals.** The recitals set forth above are incorporated herein by reference.
2. **Term.** The duration of any agreement under the Act shall be ten (10) years or until the project is completed, whatever comes first as set forth in N.J.S.A. 40A:65-7a (4) except for the BOE's maintenance of the sidewalk in accordance with the requirements of this Agreement and separate access agreement which, if the BOE is the owner of the Wayne Hills High School, shall be in perpetuity.
3. **Project Description.** The Parties are seeking to collaboratively construct the Sidewalk Project to enhance pedestrian safety for students walking to-and-from Wayne Hills High School, pursuant to the terms and conditions as set forth herein, along Berdan Avenue, a County roadway located in the Township, on property owned by the PVWC, to be owned by the PVWC, constructed by the Township, and maintained in perpetuity by the BOE to the extent required by paragraph 6a of this Agreement.
4. **County Responsibilities.**
 - a. The County agrees to reimburse to the Township fifty percent (50%) of the estimated construction cost for the Sidewalk Project for an amount not to exceed one hundred twelve thousand five hundred dollars (\$112,500.00).

- b. The County Engineer, or his representative, shall attend the design kick off meeting.
- c. At various stages of the design phase, the County Engineer shall review the plans and specifications and provide comments as-needed to the Township.
- d. The County Engineer or his/her designee shall provide written approval of the final plans and specifications of the Sidewalk Project prior to the Township advertising for bids for the construction of same.
- e. Upon acceptance of the completion of the Sidewalk Project by the County Engineer, the County shall reimburse the township as set forth in Section 4 (a) of this Agreement.

5. Township Responsibilities.

- a. The Township is responsible for all costs related to the Sidewalk Project, less the reimbursed contribution being made by the County pursuant to Section 4 (a) of this Agreement.
- b. The Township is responsible for the design and construction of the Sidewalk Project, including, but not limited to, the following:
 - i. Retaining the services of a design consulting firm, unless same is being performed in-house by the Township Engineering Department.
 - ii. Acquirement of any easements or property takings necessary to complete the Sidewalk Project.
 - iii. Submitting the final plans and specifications to the County Engineer for review and approval, prior to the advertisement and competitive bidding of the Sidewalk Project.
 - iv. Advertisement and competitive bidding of the Sidewalk Project in compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., that shall include a provision requiring the lowest responsible bidder to obtain a County Road Opening Permit prior to the start of construction.
 - v. Responding to any questions from potential respondents during the bidding phase of the Sidewalk Project, and Requests for Information (RFI) during construction, and copying the County Engineer in same.
 - vi. Obtaining any permits necessary, including, but not limited to, approval by the Soil Conservation District and New Jersey Department of Environmental Protection. The Township shall be responsible for the costs of any necessary permitting.
 - vii. Construction administration and inspection, and all costs related to same.
 - viii. Upon completion of the Sidewalk Project, the maintenance of any curbs installed, if included.

- c. The Township shall invite the County Engineer and the BOE to all material meetings of the Sidewalk Project, including, but not limited to, the design kickoff meeting, preconstruction meeting with the contractor, and any other relevant meetings as necessary.
- d. The County, PVWC, and BOE shall be named as obligees under the contractor's maintenance bond with the Township, which bond shall be for a two (2) year period beginning at the completion of the Sidewalk Project.
- e. The Township shall provide the County and the BOE with final as-built plans upon completion of the Sidewalk Project.

6. BOE Responsibilities.

- a. The BOE may review the plans and bid specifications and provide comments as-needed to the Township prior to advertisement by the Township.
- b. The BOE may attend the pre-construction meeting with the awarded contractor.
- c. So long as the BOE is the owner of Wayne Hills High School, the BOE, shall, upon completion of the Sidewalk Project, be responsible for all maintenance thereon, including, but not limited to, removal of snow and ice, and repairs and/or replacement as necessary, to maintain the sidewalks in a safe and orderly fashion for the public.

7. PVWC Responsibilities.

The PVWC shall provide an easement, as determined by the design documents, along its property on or near Berdan Avenue to the Township necessary to complete the Sidewalk Project. PVWC shall retain ownership of the property on which the Sidewalk Project is being constructed.

- 8. Insurance.** The Township shall require the contractor to name the County, BOE, and PVWC as additional insureds with respect to the Sidewalk Project on all policies required to be carried by the contractor in connection with the Sidewalk Project (excluding workers compensation).

9. Change Orders.

The Township will be responsible to review and negotiate all change orders pertaining to the Sidewalk Project and is responsible for any costs related to same upon written approval of said change orders. The County shall be consulted on all change orders prior to approval by the Township.

10. Dispute Resolution.

- a. Mandatory Mediation. In the event of a dispute, whether technical or otherwise, the objecting Party must request Non-Binding Mediation and the non-objecting party must participate in the mediation. The costs of such Non-Binding Mediation shall be borne equally by both Parties.
- b. Procedure. The Mediator shall be a retired Judge of the Superior Court of New Jersey or other professional mutually acceptable to the Parties and who has no current or on-going relationship to either Party. The Mediator shall have full discretion as to how to conduct

the mediation. Each party shall participate in the Mediator's program to resolve the dispute until and unless the Parties reach an agreement with respect to the disputed matter, or one party determines, in its sole discretion, that its interests are not being served by the mediation.

- c. **Non-Binding Effect.** Mediation is intended to assist the Parties in resolving disputes over the correct interpretation of this Agreement. No Mediator shall be empowered to render a binding decision.
- d. **Judicial Proceedings.** Upon the conclusion of Mediation, any party may commence judicial legal proceedings in the appropriate division of the Superior Court of New Jersey. Venue shall be in the County of Passaic.
- e. **Temporary Injunctive Relief.** Notwithstanding the foregoing, nothing herein shall prevent a party from seeking temporary injunctive relief to prevent irreparable harm in the appropriate division of the Superior Court of New Jersey. Venue shall be in the County of Passaic.

11. **Employment Reconciliation.** No employees are intended to be transferred or terminated by virtue of this Agreement.

12. **Notice.** All notices, reports, statements, requests, or authorizations required to be given hereunder shall be personally delivered or sent by first class mail to the Parties at the following addresses, unless a party has been notified of a change of address:

To: County of Passaic
401 Grand Street, Room 205
Paterson, NJ 07505
Attn: Matthew P. Jordan, Esq., County Counsel

To: Township of Wayne
475 Valley Road
Wayne, New Jersey 07470
Attn: Lisa Scorsolini, Esq., Assistant Township Attorney

To: Wayne Board of Education
50 Nellis Drive
Wayne, New Jersey 07470
Attn: William Moffit, Business Administrator/Board Secretary

To: Passaic Valley Water Commission
1525 Main Avenue
Clifton, New Jersey 07011
Attn: Louis Amodio, Administrative Secretary

13. **Termination.** Each party shall have the right to terminate this Agreement upon ninety (90) days' written notice served upon the Parties by Certified Mail, Return Receipt Requested.

14. **Indemnification.** To the fullest extent allowable by the law, each party, their successors, and assigns shall hold harmless, indemnify, defend, and release the other party and their members,

directors, officers, employees, agents, and contractors, successors and assigns from and against all suits, liabilities, penalties, costs, losses, damages, expenses or claims, including, without limitation, reasonable attorney's fees arising from or in any way connected with the other party's performance, attempted performance, or failure to perform in connection with this Agreement or other activities as described in the Agreement, including, but not limited to, any injury to or the death of any person or any damage to any property resulting from any act, omission, condition, or other manner related to this Agreement, regardless of cause, unless due to the negligence of any of the indemnified parties.

15. **Duty to Cooperate.** The parties agree that they shall cooperate fully with one another to defend or prosecute a claim against the contractor in connection with the Sidewalk Project or defend or prosecute a claim against a third-party based upon property damage or personal injury that in any way relates to the constructed sidewalk. By way of example, this may include, but not be limited to, agreeing to be the plaintiff in an action to enforce any failure of the contractor to comply with the construction documents.
16. **Assignment.** The Parties may not assign its rights or obligations under this Agreement without prior approval via resolution of the Board of County Commissioners of the County of Passaic, Wayne Township Council, Board of Education, and Passaic Valley Water Commission, respectively.
17. **Severability/Waiver.** All agreements and covenants contained herein are severable, and in the event any of them shall be held to be invalid by any competent court, this Agreement shall be interpreted as if such invalid agreements or covenants were not contained herein.
18. **Governing Law.** This Agreement is being executed and is intended to be performed in the State of New Jersey and shall be governed in all respects by the laws of the State of New Jersey.
19. **Public Inspection.** A copy of this Agreement shall be available for public inspection at the offices of all Parties in accordance with N.J.S.A. 40A:65-4b.
20. **Filing with Department of Community Affairs.** Pursuant to N.J.S.A. 40A:65-4b, this Agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.
21. **Entire Agreement.** This Agreement contains all of the terms and conditions agreed upon by the Parties and supersedes all other negotiations, representations, and understandings of the Parties, oral or otherwise, regarding the subject matter.
22. **Amendments and Modifications.** This Agreement may be amended only by an instrument in writing signed by the Parties and effective as of the date stipulated therein. For any amendment to be valid and binding on the County, it must be accompanied by a resolution authorizing same.
23. **Force Majeure.** If either parties' performance of any of the provisions of this Agreement become impossible due to Force Majeure, that County will be excused from performing such obligations until such time as the Force Majeure event has ended and all facilities and operations have been repaired and/or restored.

24. **Headings.** The Article and Section headings in this Agreement are included herein for convenience of reference only and are not intended to define or limit any scope of any provision of this Agreement.
25. **Authority.** By the signatures below, the Parties execute this Agreement and confirm that they are mutually bound by and fully authorized and empowered to enter into and bind their organization by all provisions contained therein.

IN WITNESS of the foregoing provisions, the Parties have executed and delivered this Agreement as of the date set forth below:

Attest:

COUNTY OF PASSAIC

Louis E. Imhof, III
Clerk, Board of County Commissioners

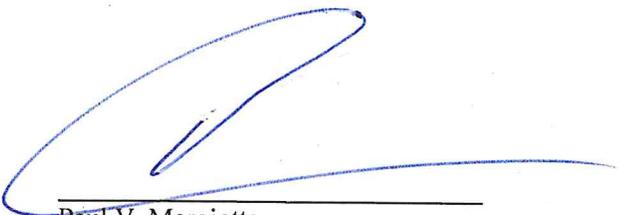
Bruce James
Director, Board of County Commissioners

As to form and legality:

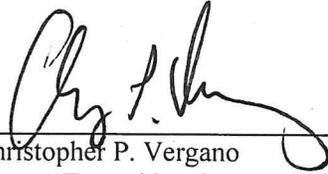
Mathew P. Jordan, Esq.
Passaic County Counsel

Attest:

TOWNSHIP OF WAYNE



Paul V. Margiotta
Township Clerk



Christopher P. Vergano
Mayor, Township of Wayne

THE FOREGOING AGREEMENT AUTHORIZED BY
RESOLUTION No. 249 of 2022 ADOPTED
ON June 15, 2022 HAS BEEN REVIEWED
AND APPROVED AS TO FORM.



OFFICE OF THE TOWNSHIP ATTORNEY

Attest:

WAYNE BOARD OF EDUCATION

Ann Marie Cassera

ANN MARIE CASSERA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/25/2026

William Moffitt

William Moffitt, Business Administrator/
Board Secretary

Attest:

PASSAIC VALLEY WATER COMMISSION

Christine A. Vozzella

CHRISTINE A VOZZELLA
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES MARCH 28, 2023
NO. 50079286

Rigo Sanchez

Rigo Sanchez
President